

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

IN RE: NATIONAL PRESCRIPTION  
OPIATE LITIGATION

CASE NO. 1:17-MD-2804

HON. DAN AARON POLSTER

This document applies to All Hospital Cases

**HOSPITAL PLAINTIFFS' MOTION FOR EXTENSION OF TIME**

Hospital Plaintiffs, by and through Don Barrett, the hospital representative of the Plaintiffs' Executive Committee, move for a brief seven-day extension of time to respond to any response that DOJ files in opposition to Plaintiffs' Motion to Modify Protective Order Re: DEA's ARCOS/DADS Database (Doc. No. 1447) ("Motion").

Plaintiffs filed the Motion on March 15. On March 17, Hospital Plaintiffs filed a brief in support of the Motion. (*See* Hospital Pls.' Br. in Support of Pls.' Mot. to Modify Protective Order Re: DEA'S ARCOS/DADS Database, Mar. 19, 2019, Doc No. 1455).

On March 19, 2019, the Court ordered an expedited briefing schedule for the Motion. (*See* Order, Mar. 19, 2019 ("March 19 Order")). Specifically, the Court ordered that "Any Objection to Plaintiffs' Proposed Order is due by 12:00 PM on 3/29/19. Reply in Support is due by 12:00 PM on 4/5/19." March 19 Order.

On March 29, 2019, Defendants AmerisourceBergen Drug Corporation, Cardinal Health, Inc., McKesson Corporation, and Walgreens Boots Alliance, Inc. filed an opposition to the Motion. (*See* Certain Defs.' Opp. to Pls.' Mot. to Modify Protective Order re: DEA's ARCOS/DADS Database, Mar. 29, 2019, Doc No. 1488 ("Distributors' Opposition")). Defendants CVS Indiana, L.L.C, Discount Drug Mart, Inc., HBC Service Company, Kroger Co., Rite Aid of Maryland, Walgreens Boots Alliance Inc., and Walmart Inc. also filed an opposition that largely incorporated

objections raised by the Distributors. (*See* Resp. to Pls. Mot. to Modify Protective Order Re: DEA's ARCOS/DADS Database, Mar. 29, 2019, Doc No. 1494 ("Pharmacies' Opposition")). Defendants contended that "consistent with DEA's position—plaintiffs should not be authorized to disclose any ARCOS data to counsel for a hospital, as hospitals are outside the scope of routine law enforcement sharing, as DEA acknowledges." Distributors' Opposition, at 4; *see also* Pharmacies' Opposition, at 1 (stating that "Pharmacy Defendants join the Distributor Defendants opposition to Plaintiffs' motion.").

Neither group of defendants articulated substantive reasoning against Hospital Plaintiffs' access to the ARCOS data, nor did they cite to any authorities in support of the position. Instead, their position is purportedly consistent with an anticipated opposition yet to be filed by DOJ, in which DOJ is likely to suggest arguments against sharing any ARCOS data with Hospital Plaintiffs.<sup>1</sup>

On March 29, 2019, the Court granted an extension of time to DOJ to file an opposition to the Motion by Friday, April 5, 2019. (*See* Order, Mar. 29, 2019 (granting DOJ's Motion for Extension of Time until April 5, 2019 to file response to Doc. 1447 Motion to Modify Protective Order)). To date, Hospital Plaintiffs have not received any response to the Motion by DOJ. If DOJ files its opposition by April 5, 2019, Hospital Plaintiffs request a fair chance to address any arguments against disclosure of the ARCOS data to Hospital Plaintiffs.

Hospital Plaintiffs respectfully request permission by the Court to file any necessary reply by April 12, 2019.

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<sup>1</sup> DOJ requested an extension of time to respond to the Motion because "DEA received additional comments yesterday and requires additional time to review, meet, and confer with the parties. With the Court's permission, DEA will file any necessary response promptly but no later than April 5, 2019." (Mot. for Extension of Time, Mar. 29, 2019, Doc No. 1487).

Dated: April 4, 2019

Respectfully submitted,

By: /s/ Don Barrett  
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*Plaintiffs' Executive Committee Hospital  
Representative*

**CERTIFICATE OF SERVICE**

I hereby certify that on this the 4th day April of 2019, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF System. Copies will be served upon counsel of record by, and may be obtained through, the Court CM/ECF Systems.

/s/ Don Barrett  
Don Barrett